

PROPOSED RESOLUTION

Resolution W-4979
DWA/RSK/BMD/jp4

AGENDA ID #13308 (Rev. 1)
Item #14

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W- 4979
October 16, 2014

R E S O L U T I O N

(RES. W-4979), GREAT OAKS WATER COMPANY. ORDER APPROVING GREAT OAKS WATER COMPANY'S REQUEST TO PERMIT PAYMENT OF WATER BILLS USING A CREDIT OR DEBIT CARDS OR ACH/ELECTRONIC CHECK AS BILL PAYMENT OPTIONS.

By Advice Letter No. 235-W filed on November 15, 2013.

SUMMARY

This Resolution approves Great Oaks Water Company's request to allow customers to pay their water service bills using a credit or debit card and Automatic Clearing House /electronic check through a third party vendor for a fee. Customers paying water service bills using an automated internet/web and Interactive Voice Response system or assistance from a Great Oaks' Customer Service Representative will pay a non-refundable convenience fee of \$1.95 for one-time web and automated telephone payments and a fee of \$2.95 for customer service representative assisted credit card or debit card payments. Approval of bill payment using the automated internet/web and Interactive Voice Response system is conditioned on Great Oaks Water Company establishing by a Tier 2 Advice Letter a memorandum account to record all current and future costs currently included in base rates associated with the proposed payment options and savings arising from the reduced number of shutoffs associated with timely payment of bills using the automated internet/web and Interactive Voice Response system. Any net balance in the memorandum account shall be refunded to customers in Great Oaks Water Company's next general rate case. Further, in its next general rate case filing, Great Oaks Water Company shall remove all costs associated with the internet/web and Interactive Voice Response system included in base rates.

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BACKGROUND

Great Oaks Water Company (Great Oaks) filed Advice Letter 235-W on November 15, 2013 seeking Commission authorization to:

- (a) Offer its customers the option of paying their water bills using credit card or debit card, or by Automatic Clearing House (ACH)/electronic check through a third-party vendor.
- (b) Not open a memorandum account to track expenses associated with the proposed payment options.

Great Oaks' Proposed Payment Options

Great Oaks seeks authority to accept credit or debit cards or ACH/electronic check for payment of water bills by its customers (Proposed Payment Options). Customers would be charged a non-refundable convenience fee by a third-party vendor for this service. The convenience fee to the customer for this service will be \$1.95 for web and automated telephone payments and \$2.95 for customer service representative-assisted credit card or debit card payments.

Great Oaks asserts that the program is being offered as a service to Great Oaks' customers and not as a cost savings measure and will not improve the company's profitability. The company further asserts that it will not receive any revenue from the service; customers not utilizing this service will not incur any fee or other expenses; and water service and rates will not be affected by the proposed payment options.

Vendor Selection and Proposed Contract

Great Oaks requested proposals for the Proposed Payment Options from nine vendors.¹ Each vendor's proposal was required to satisfy criteria that included: (1) revenue-neutral credit card, debit card, and ACH/electronic check payment processing with no revenue generated or cost to Great Oaks; (2) a web-based payment option; (3) ability to make credit card or debit card payments at Great Oaks' offices; (4) ability for customers to make payments after hours and on weekends; (5) Great Oaks to receive payments

¹ The vendors contacted were: Fiserv, Inc., Wells Fargo & Company, Western Union, Intuit, Chase Paymentech, Payjunction, Merchant Warehouse, Flagship, and National Bankcard. AL 235, pg. 2, 3

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notification at nearly real-time or within 24 to 48 hours(maximum); (6) Great Oaks to have the ability to customize the implementation and management of any web-based payment option; and (7) Great Oaks' Customer Service Representatives (CSR) should have the ability to take payments over the telephone.² Only one vendor, Fiserv Inc., submitted a proposal for offering the services on Great Oaks' terms. Great Oaks selected Fiserv, Inc., as its third-party payment vendor, to provide the proposed services.

Under Fiserv's proposal, customers who wish to pay their water bills using the proposed payment options will be directed by Great Oaks' CSR to either use the automated internet/web and Interactive Voice Response (IVR) system or use assistance from Great Oaks' CSR for an additional fee. The convenience fee will be \$1.95 per transaction for using the automated system to pay their bills by credit card, debit card and ACH electronic checks. The convenience fees will be \$2.95 for credit or debit cards payments that require assistance from a CSR either by phone or at a Great Oaks office. According to Great Oaks, the reason for the higher transaction costs for CSR assisted service is that Fiserv incurs higher fees from the credit card issuers when a credit card machine is used (required by CSR assisted services) than when its automated system is used.³ Great Oaks will be responsible for one-time implementation and setup fees of \$1,000 and a minimum of \$700 in transactions per month. The proposal assumes that the services agreement will be in place for at least five years. Great Oaks states that eliminating the CSR payment option or not permitting payments using VISA cards to reduce costs will cause Fiserv to withdraw its service proposal altogether.⁴

Great Oaks has stated that if it is authorized to offer the proposed services, its shareholders will pay the implementation and setup fees as well as any shortfall in the contractual minimum monthly transaction fees per Fiserv's proposal. Those payments will not be passed onto ratepayers.⁵

On December 3, 2013, the Division of Water and Audits (DWA) suspended AL No. 235 because additional information was required to complete review of the filing.

² Response to ORA Data Request KKE001, Request 3.

³ E-mail from Timothy Guster, General Counsel, Great Oaks Water Company to Ravi Kumra, Division of Water and Audits, March 04, 2014.

⁴ Advice Letter 235-W at pg. 4

⁵ Response to DWA Data Request GOWC AL 235 RK 001, Request 2.

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NOTICE AND PROTEST

Great Oaks served AL No. 235-W on parties on its AL service list and posted the AL on its web site pursuant to General Order (GO) 96-B, Water Industry Rule 4.3.⁶

On December 2, 2013, DWA granted the Office of Ratepayer Advocates (ORA) request for a one-week extension until December 20, 2013 for filing a protest to AL 235-W.⁷ On December 20, 2013, ORA requested a further extension of time to February 7, 2014 to conduct discovery to determine the reasonableness of Great Oaks' proposed transaction fees and compliance with requirements of PU Code § 755.⁸ On December 23, 2013, Great Oaks filed its opposition to ORA's request for further extension contending that it provided all requested information and ORA did not express any issues or concerns with that submittal.⁹ ORA did not follow up with a protest to AL No. 235-W so its request for extension of time is moot. No other protests to AL No. 235-W were received by DWA.

DISCUSSION

Compliance with Public Utilities Code § 755

Public Utilities (PU) Code § 755 permits water utilities to offer a credit or debit card bill payment option if approved by the Commission and also requires that only those customers choosing to use the credit or debit card payment option shall incur the additional charges associated with providing this service, unless and until the Commission determines that the credit or debit card payment option results in savings to ratepayers that exceed the net costs of accepting payment by those cards. (PU Code § 755(a)(2)). The Commission is required to determine the reasonableness of transaction costs charged to customers that choose to pay their water bills by credit or debit card pursuant to PU Code § 755(c). If the Commission determines that the savings to the

⁶ Response to Data Request GOWC AL 235 RK 001, Request 1.

⁷ E-mail from DWA, to ORA dated December 2, 2013, granting an extension of time to file protest to Great Oaks Advice Letter 235.

⁸ Letter from Danilo Sanchez, Program Manager, ORA to Rami Kahlon, Director, DWA, dated December 20, 2013

⁹ Letter from Timothy S. Guster, General Counsel, Legal and Regulatory Affairs, Great Oaks Water Company to Rami Kahlon, Director, DWA, dated December 23, 2013.

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utility's corporation exceeds the costs to the company, the net savings shall be passed on to the utility corporation's customers. (PU Code § 755(c)(3)).

Great Oaks believes that its request complies with PU Code § 755 (a)(2) because only customers who choose to use the Proposed Payment Options will incur the additional costs for providing this service. No portion of these expenses will be shifted to customers who do not use this optional payment service to pay their water service bills.

Establishment of Memorandum Account

Great Oaks' states that a memorandum account is not needed to track expenses and savings associated with the proposed payment options because the expenses and savings are minimal. For the following reasons, we disagree.

Great Oaks indicates that its billing system is designed to receive data from Fiserv and any additional programming associated with start-up or ongoing maintenance to implement the program will be reduced.¹⁰ Great Oaks also states that all tasks, including CSR expenses, associated with the offering will be performed by Great Oaks' employees as part of their normal course of business. CSR expenses are not expected to increase from those already approved by the Commission and no outside expenses for legal and other tasks associated with this offering have been incurred. Finally, Great Oaks indicates it will not realize any savings in transaction costs if a customer chooses one of the requested payment options.

As noted above, all third-party vendors proposing to provide credit or debit card services were required to meet certain minimum conditions. Those conditions included: the ability of Great Oak's customers to pay their water bills by credit card and debit card at the utility's offices or over the telephone; and, the ability for Great Oaks to customize the implementation and management of any web-based payment option.

Great Oaks is not the first water utility that has requested Commission authorization to offer credit or debit card payment options. *See* Res. W-4942 (Golden State Water Co.); Res. W-4936 (Apple Valley Ranchos Water Co.); Res. W-4935 (Park Water Co.); and Res. W-4908 (Valencia Water Co.). In all of these instances, the Commission has required the

¹⁰ Response to Data Request GOWC AL 235 RK 001, Request 3a.

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requesting utility to open a memorandum account to track costs and savings associated with the new program. Great Oaks has not demonstrated that it is differently situated from these utilities, such that we should depart from precedent now.

From experience with other utilities, DWA staff believes that Great Oaks will incur costs for programming, testing and training of its employees to implement the proposed payment options. Ongoing expenses will be incurred to ensure that payments received from the third party vendor are accurately applied to the proper customer accounts and time will be spent for CSR-assisted credit or debit card payments. Additional costs will be incurred for printing, mailing and posting notice of the availability of the credit/debit card payment program on Great Oaks' website. Recovery of costs associated with the Proposed Payment Options should not be permitted from the general body of non-participating customers. Also, the net costs from these offerings should be recovered from the users of the services or from Great Oaks' shareholders.

Even were Great Oaks able to minimize or negate the costs that it incurs to implement the new payment options, we must require Great Oaks to track potential savings as well: "If the commission determines that the savings to the . . . water corporation exceeds the costs to the . . . water corporation, the net savings *shall* be passed on to . . . water corporation customers." PU Code § 755(c)(3) (emphasis added). In the experience of DWA staff, water utilities implementing credit or debit payment options realize savings from fewer service disconnections per month because of timely bill payments.

Therefore, as a condition of our approval of Great Oaks' request to offer its proposed optional payment services, we require Great Oaks to file a Tier 2 Advice Letter establishing a memorandum account. In this memorandum account, Great Oaks shall record all costs previously authorized in rates that have been used to develop this offering, the cost of noticing the program, and savings from reduced number of shutoffs associated with timely payment of bills using the proposed payment options. The net balance in the memorandum account shall be refunded to customers as part of Great Oaks' next general rate case. Further, in its next general rate case filing, Great Oaks shall remove all costs associated with the debit and credit card payment program that are included in base rates. The costs that are removed from base rates can either be charged to customers who use the proposed optional payment option or absorbed by Great Oaks' shareholders. This will ensure compliance of Great Oaks' proposed

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payment options with PU Code § 755. This is also consistent with our policy for similar offerings by other water utilities.

Reasonableness of Convenience Fee

PU Code § 755(c) requires the Commission to make a determination regarding the reasonableness of transaction costs charged to customers who use a credit or debit card option. DWA believes that since this is an optional service which only one third-party vendor, Fiserv, is willing to offer, the transaction fees of \$2.95 for payments of water bills using a credit or debit card and the proposed \$1.95 convenience fee per transaction for web-based payment of bills compares favorably with charges that we have authorized for other utilities of similar size are reasonable. We find that the proposed convenience fee structure for this optional service to be reasonable and should be approved.

COMMENTS

Public Utilities Code section 311(g) (1) provides that resolutions generally must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, this proposed resolution was mailed to the utility and the Advice Letter 235-W service list for comment on September 12, 2014.

No comments were received.

FINDINGS AND CONCLUSIONS

1. Great Oaks filed Advice Letter 235-W requesting authority to offer its customers options to pay their water bills using a credit card or debit card or ACH/electronic checks, and not be required to track expenses associated with the proposed payment options in a separate memorandum account.
2. Great Oaks served Advice Letter (AL) No. 235-W on its service list and also posted the AL on its web site. This is considered sufficient notice under General Order 96-B, Water Industry Rule 4.3.
3. Public Utilities Code § 755 permits water utilities to offer a credit card or debit card bill payment option if approved by the Commission.

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4. Public Utilities Code § 755 requires that only those customers choosing to use the credit or debit card bill payment option incur the additional charges associated with providing this service, unless the Commission determines that the credit or debit card bill payment option results in savings to ratepayers that exceed the net cost of accepting payment by those cards.
5. Public Utilities Code § 755 requires the Commission to determine the reasonableness of transaction costs charged to customers that choose to pay the water corporation using a credit or debit card.
6. Great Oaks proposes that customers may opt to pay their water bills using credit or debit cards or ACH/electronic checks (Proposed Payment Options) for a convenience fee. The convenience fee, to be collected by a third-party vendor, will be \$1.95 for automated web-based or Interactive Voice Response (IVR) payments and \$2.95 for Customer Service Representative (CSR) assisted credit card and debit card payments.
7. Convenience fees for using the Proposed Payment Options will flow directly to the third party vendor.
8. Customers who do not elect to use the Proposed Payment Options will not be charged for any costs related to providing this service.
9. Fiserv's proposed contract requires a payment of \$1,000 for program implementation and setup and minimum of \$700 per month in revenues for offering the services.
10. Great Oaks' shareholders, upon approval of its proposal, will pay the one time implementation fees and makeup any shortfall in the monthly revenues generated from the service.
11. It is reasonable for customers to pay a per transaction fee of \$1.95 to pay their water bills using credit or debit cards or ACH/electronic checks.
12. It is reasonable for customers to pay a convenience fee of \$2.95 per transaction for Customer Service Representative-assisted payments of water bills.

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13. Public Utilities Code § 755 requires that Great Oaks Water Company may recover reasonable transaction costs for offering the credit or debit card option only from those customers that choose to pay by those options.
14. Great Oaks will incur costs to implement its proposed payment options for: programming, testing and training of its staff, updating accounting records, and Customer Service Representatives costs for assisting customers to pay by credit or debit card either on site or on the telephone and fulfilling required regulatory requirements.
15. It is reasonable for Great Oaks to track all costs associated with the proposed offering in a memorandum account. That account shall also record all verifiable savings from reduced shut offs because of credit and debit card payments by customers. Great Oaks should file a Tier 2 Advice Letter to open that memorandum account. The net balance in the memorandum account should be refunded to the general body of ratepayers as part of Great Oaks' next general rate case.
16. It is reasonable for Great Oaks to modify its Tariff Rule No. 9 to establish a credit/debit card bill program option consistent with Appendix A attached to this Resolution.
17. Great Oaks should file a Tier 1 Advice Letter modifying Tariff Rule No. 9 – Rendering and Payment of Bills, consistent with Appendix A attached to this Resolution.

THEREFORE IT IS ORDERED THAT:

1. Great Oaks Water Company's (Great Oaks) request in Advice Letter (AL) 235-W to allow customers to pay their water service bills using a credit or debit card is approved.
2. Great Oaks' request to permit customers to pay water service bills using an automated internet/web and Interactive Voice Response system or assistance from a Great Oaks' Customer Service Representative is approved. Great Oaks Water Company may file a Tier 1 advice letter to modify Tariff Rule No.9- Rendering and

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Payment of Bills, consistent with the authorization in this Resolution to offer this payment option.

3. Establishment of the bill payment option adopted in Ordering Paragraph 2 above is conditioned on Great Oaks Water Company establishing, by a Tier 2 Advice Letter, a Memorandum Account to record all current and future costs currently included in base rates associated with the automated internet/web Interactive Voice Response system or assistance from a Great Oaks' Customer Service Representative and savings arising from the reduced number of shutoffs associated with timely payment of bills using these payment options. Great Oaks Water Company shall file this memorandum account advice letter within 30 days of this Resolution.
4. Any net balance in the memorandum account established in Ordering Paragraph 3 above shall be refunded to customers in Great Oaks Water Company's next general rate case.
5. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on October 16, 2014; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

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CERTIFICATE OF SERVICE

I certify that I have by electronic mail and mail this day served a true copy of Proposed Resolution W-4979 on all parties in these filings or their attorneys as shown on the attached list.

Dated September 12, 2014, at San Francisco, California.

/s/ JENNIFER PEREZ
Jennifer Perez

Parties should notify the Division of Water and Audits, Public Utilities Commission, 505 Van Ness Avenue, Room 3106, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number of the service list on which your name appears.

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APPENDIX A

Rule No. 9 RENDERING AND PAYMENT OF BILLS (Cont'd)

- B. Payment of Bills (continued) (N)
- (2) Credit Card, Debit Card, and ACH/Electronic Check Payment Options. At the option of the customer, a credit card, debit card, or ACH/electronic check payment may be made. These payments will be accepted through the use of a vendor(s), and a non-refundable convenience/transaction fee shall apply. For credit card, debit card, and ACH/ electronic check payments made through the provided internet/web-based system, through the provided Interactive Voice Response (IVR) system, the convenience/transaction fee shall be \$1.95 per transaction. For credit card and debit card payments made through the provided Customer Service Representative- assisted system, the convenience/transaction fee shall be \$2.95 per transaction. All convenience/transaction fees are paid by the customer directly to the vendor and not to the utility. (N)

END OF APPENDIX A

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APPENDIX B

Great Oaks Water Company Service List of Resolution W-4979

Municipal Water System
City of San Jose
3025 Tuers Road
San Jose, CA 95121

County Clerk
County of Santa Clara
70 W. Hedding Street
San Jose, CA 95110

Safe Drinking Water Office
Department of Water urces
1416 9th Street, Room 804
Sacramento, CA 95814

Office of Regulatory Affairs
California Water Service Company
1720 North First Street
San Jose, CA 95112

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

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END OF APPENDIX B